

# STATE OF NEW YORK

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7204

2023-2024 Regular Sessions

## IN SENATE

May 18, 2023

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Introduced by Sen. ROLISON -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT in relation to directing the commissioner of the office of children and family services to establish a "Consumer Directed Childcare Pilot Program" in certain counties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Consumer Directed Childcare Pilot Program established. The  
2 commissioner of the office of children and family services is hereby  
3 directed to establish a "Consumer Directed Childcare Pilot Program",  
4 within amounts appropriated therefor, in up to five counties in accord-  
5 ance with the provisions of this act.

6 § 2. Definitions. For the purposes of this act, the following terms  
7 shall have the following meanings:

8 (a) "Commissioner" shall mean the commissioner of the office of chil-  
9 dren and family services.

10 (b) "Childcare provider", or "provider", shall mean an individual who  
11 has obtained an individual unique identifier from the commissioner to  
12 provide childcare services to an eligible family or an eligible family's  
13 designated representative in accordance with such family's or represen-  
14 tative's instruction, supervision, and direction.

15 (c) "Eligible family" shall mean an individual who is a parent or  
16 guardian of one or more minor children who:

17 (i) is not eligible for any state or federal funding or grant programs  
18 for childcare services;

19 (ii) meets such financial guidelines as established by the commission-  
20 er; and

21 (iii) meets such other criteria, as may be established by the commis-  
22 sioner, which are necessary to effectively implement the objectives of  
23 the program.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (d) "Program" shall mean the Consumer Directed Childcare Pilot Program  
2 established by the commissioner pursuant to this act.

3 (e) "Office" shall mean the office of children and family services.

4 § 3. Administration. The program shall be administered by the local  
5 social services district in counties having a population of not less  
6 than one hundred sixty thousand and not more than three hundred thousand  
7 persons according to the 2020 United States Census. Such social services  
8 districts shall file an implementation plan with the commissioner, which  
9 shall be updated annually. The office shall require that such implemen-  
10 tation plans include, at a minimum, district enrollment targets and a  
11 description of the methods for the provision of notice and assistance to  
12 families who are eligible for enrollment in the program, and such other  
13 information as may be required by the office. The office shall provide  
14 guidance to such counties to ensure compliance and meet program goals.  
15 The office shall also provide technical assistance and such other  
16 assistance as may be necessary to assist such local social service  
17 districts in ensuring access to the program for eligible families.

18 § 4. Division of responsibilities. (a) Each eligible family who elects  
19 to participate in the program shall assume such responsibility for  
20 services under the program as are mutually agreed to by the eligible  
21 family and the childcare provider and documented in such eligible fami-  
22 ly's record, including, but not limited to, the recruitment, hiring and  
23 supervision of such childcare provider.

24 (b) An immediate family member or designated representative may not be  
25 the childcare provider for the eligible family. However, a childcare  
26 provider may include any other adult relative of the eligible family,  
27 provided that the commissioner determines that the services provided by  
28 such relative are consistent with the program requirements.

29 (c) A childcare provider shall not be liable for fulfillment of  
30 responsibilities agreed to be undertaken by the eligible family.

31 § 5. Participating providers. Any agency or individual that meets the  
32 qualifications required to provide childcare services and who elect to  
33 provide such services to eligible families may participate in the  
34 program.

35 § 6. Fiscal intermediary services. (a) The office shall contract with  
36 fiscal intermediaries to perform the following services:

37 (i) wage and benefit processing for childcare providers;

38 (ii) processing income tax and other required wage withholdings;

39 (iii) compliance with workers' compensation, disability and unemploy-  
40 ment requirements;

41 (iv) maintenance of personnel records for each consumer directed  
42 childcare provider, including time records and other documentation need-  
43 ed for wages and benefit processing and copies of such other documenta-  
44 tion as may be required pursuant to regulations established by the  
45 commissioner for such purpose;

46 (v) provision for the assessment of the health status of each consumer  
47 directed childcare provider prior to delivery of services in accordance  
48 with regulations established by the commissioner;

49 (vi) maintenance of records of service provider authorizations;

50 (vii) monitoring the eligible family's or, if applicable, the desig-  
51 nated representative's continuing ability to fulfill such family's or  
52 representative's responsibilities under the program, and promptly noti-  
53 fying the authorizing entity of any circumstance that may affect the  
54 eligible family's or, if applicable, the designated representative's  
55 ability to fulfill such responsibilities;

1 (viii) entering into an memorandum of understanding with the eligible  
2 family and approved by the office that describes the parties' responsi-  
3 bilities under the program; and

4 (ix) such other related responsibilities as may be determined by the  
5 commissioner, which may include, assisting eligible families with the  
6 performance of such eligible family's responsibilities under the program  
7 in a manner that does not infringe upon the eligible family's responsi-  
8 bilities and self-direction.

9 (b) A fiscal intermediary shall not be responsible for, and fiscal  
10 intermediary services shall not include, fulfillment of the responsibil-  
11 ities of the eligible family or, if applicable, the family's designated  
12 representative as are established by the commissioner. A fiscal interme-  
13 diary's responsibilities shall not include, and a fiscal intermediary  
14 shall not engage in:

15 (i) the management of any services provided by childcare providers  
16 pursuant to the program, including recruitment and hiring of childcare  
17 providers;

18 (ii) the training, supervision and scheduling of childcare providers,  
19 termination of a childcare provider's employment, or the provision of  
20 any assurance or representation by the intermediary with respect to the  
21 competence or safety of any childcare services performed pursuant to the  
22 program.

23 (c) A fiscal intermediary shall exercise reasonable care in properly  
24 carrying out its responsibilities under the program.

25 § 7. This act shall take immediately.